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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/800,102	03/12/2004	Michael F. Lieber	8253/13	8937

7590 01/06/2006

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EXAMINER

DEVOTI, PAUL D

ART UNIT

PAPER NUMBER

3637

DATE MAILED: 01/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/800,102	<b>Applicant(s)</b> LIEBER, MICHAEL F.	
	<b>Examiner</b> Paul Devoti	<b>Art Unit</b> 3637	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____  |

## DETAILED ACTION

### *Specification*

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Please remove the phrase, "the invention is", as recited in line 1 of the abstract.

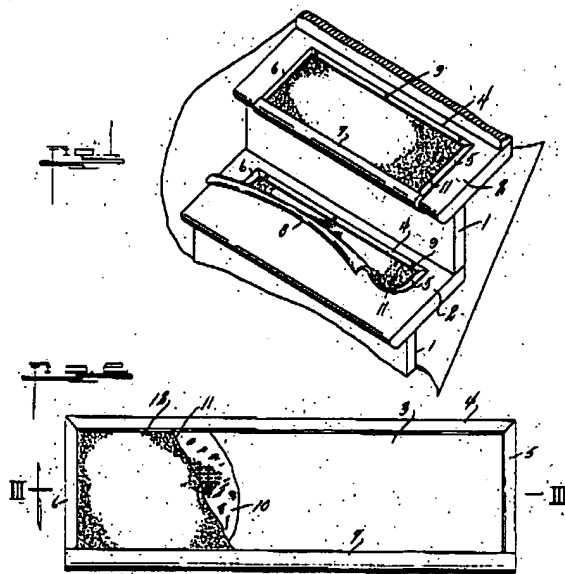
2. The disclosure is objected to because of the following informalities: the phrase "is application" in paragraph 14, lines 3-4 should be changed to "is applied".

Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

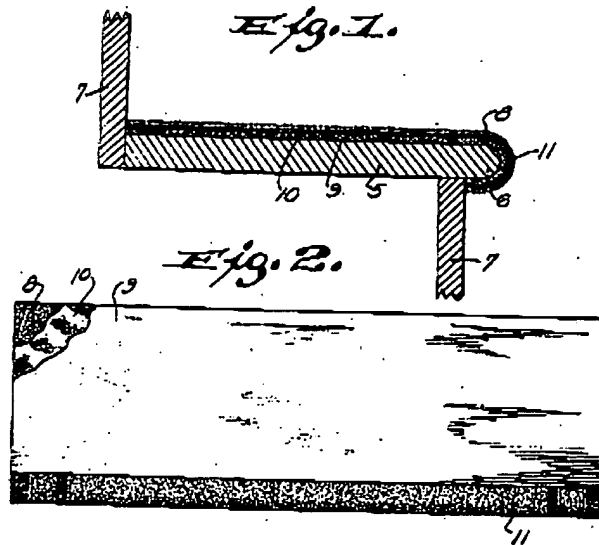
3. Claims 1, 2, 3, 5, 6, 7, and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Loudenslager (US 1789875). Regarding claims 1, 2, and 3, Loudenslager discloses a stair tread with an upper layer (11) comprised of a woven rug (column 2, lines 59-67), and a non-skid material (3) provided to an underside of the upper layer. Regarding claim 5, the non-skid material inherently comprises a mat. Regarding claims 6 and 7, the non-skid material is made of a rubber material. Regarding claim 13, the upper layer (11) is fastened to the non-skid material (3) using an adhesive (10).



Loudenslager (US 1789875) Figures 1 and 2

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4. Claims 1, 2, 4, 5, 6, 7, 13, and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Zedler (US 1795632). Zedler discloses a stair tread with an upper layer comprised of a rug (8), and a non-skid material (9) provided to be an underside of the upper layer. Regarding claim 4, the upper layer (8) is made from cotton or wool (lines 51-55). Regarding claim 5, the non-skid material inherently forms a mat. Regarding claims 6 and 7, the non-skid material (9) is made of a rubber material. Regarding claim 13, the upper layer (8) and non-skid material (9) are fastened together using vulcanizing rubber cement. Regarding claim 15, the non-skid material is a sheet of rubber material.



Zedler (US 1795632) Figures 1 and 2

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

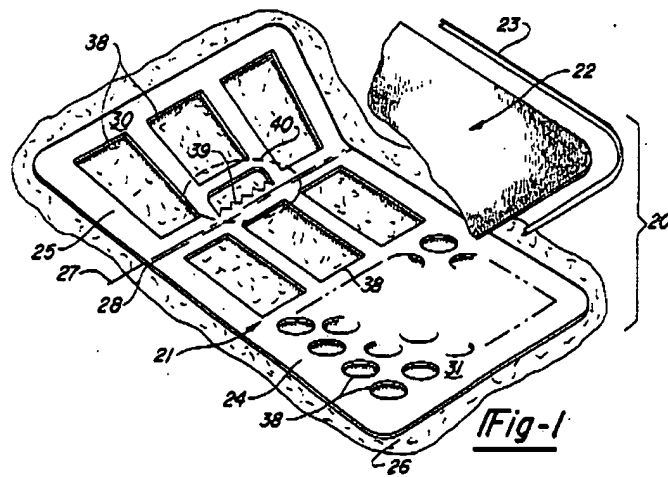
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Loudenslager (US 1789875) in view of McClung (US 4917932). Loudenslager discloses everything previously mentioned, but does not disclose the synthetic non-skid material is made of polyvinyl chloride material. McClung, however, discloses a mat with a non-skid material made of polyvinyl chloride (column 3, lines 6-11). Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention to modify Loudenslager's stair tread to include a non-skid material made of polyvinyl chloride, as taught by McClung to provide an effective non-skid bottom surface.

7. Claims 9, 11, 12, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Loudenslager (US 1789875) in view of Altus (US 4758457). Loudenslager discloses everything previously mentioned, but does not disclose the upper layer is connected to the non-skid material, using a binding applied to the outer perimeter of the upper layer, where the binding connects the outer perimeter of the upper layer to an outer edge of the non-skid material. Altus,

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however, discloses a mat (20) with an upper layer (22) connected to a non-skid material (21) using a binding (23) applied to the outer perimeter of the upper layer (22), where the binding (23) connects the outer perimeter of the upper layer (22) to an outer edge of the non-skid material (21). Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention to modify Loudenslager's stair tread to include a binding that connects the upper layer and non-skid layer, where the binding is applied to the outer perimeter of the upper layer, and where the binding connects the outer perimeter of the upper layer and outer edge of non-skid material, as taught by Altus to securely attach the upper layer and non-skid layer.



Altus (US 4758457) Figure 1

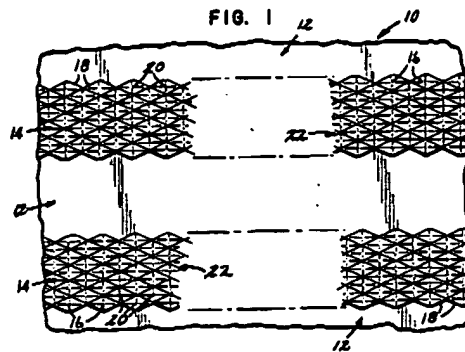
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8. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Loudenslager (US 1789875) in view of Altus (US 4758457). Loudenslager in view of Altus discloses everything previously mentioned, and it would be obvious to use thread of cotton, wool, or polyester, to sew and create a binding between the upper layer and non-skid material.

9. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Loudenslager (US 1789875). A stair tread with a non-skid material would obviously have a coefficient of friction sufficient to prevent skidding.

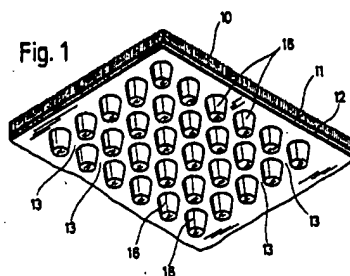
10. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Loudenslager (US 1789875) in view of Ecker (US 4366200). Loudenslager discloses everything previously mentioned, but does not disclose the non-skid material is provided as a web of material. Ecker, however, discloses a mat with a non-skid surface with planar strips (12, 14) forming a web of material. Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention to modify Loudenslager's stair tread to include non-skid web of material, as taught by Ecker to provide an effective non-skid bottom surface.





Ecker (US 4366200) Figure 1

11. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Loudenslager (US 1789875) in view of Starp (US 5082712). Loudenslager discloses everything previously mentioned, but does not disclose the non-skid material is provided in a waffle shaped configuration. Starp, however, discloses a floor covering (10) with a non-skid material (15) in a waffle shaped configuration (16). Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention to modify Loudenslager's stair tread to include non-skid material with a waffle shaped configuration, as taught by Starp to provide an effective non-skid bottom surface.



Starp (US 5082712) Figure 1

***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Dolnick et al. (US 2721818) discloses a throw rug with a non-skid floor engaging surface. Wallisch et al. (US 1520042) discloses a stair tread with an upper layer and lower layer that are bound around the perimeter of the upper layer. Herschmann (US 2237224) discloses a stair carpet with an upper layer and lower layer. Warnberg (US 3104195) discloses a non-slip rug where the non-slip material is a web of material. Weiland (US 2064134) discloses a stair tread mat made of rubber sheeting. Preston et al. (US 3168757) discloses a non-skid floor mat with a latex backing. Messick (US 1094859) discloses an anti-slip stair sheet with upper and lower layers. Stein (US 2427631) discloses a stair pad with an upper tread layer and a backing.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Devoti whose telephone number is 571-272-2733. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 571-272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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01/03/06

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*Lanna Mai*